



## **Request for Statements of Qualifications**

General Airport Consultants  
Fayetteville Regional Airport

**Due: Thursday, June 7, 2018; 5:00 p.m.**

**A message from the City of Fayetteville City Manager, Douglas J. Hewett, ICMA-CM**


The City of Fayetteville is fully committed to provide Small Local Business Enterprises (SLBE's) an equal opportunity to participate in all aspects of City contracting including, but not limited to participation in the procurement of contracts relating to the construction of and improvements to facilities throughout the City. It is also the policy of the City to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, sex, color, religion or national origin and to conduct its contracting and purchasing programs so as to prevent such discrimination. The City is also committed to follow all applicable State and Federal law as they relate to procurement practices.

The City will actively seek and identify qualified SLBE's and offer them the opportunity to participate in the procurement of contracts for all City purchasing and service contracts as well as construction and repair contracts.

The City aspires to spend 40% of its eligible contract dollars with small local suppliers and contractors. Towards this end the City's Charter has been amended by the General Assembly (H.B. 198) to allow the City to establish a race and gender neutral small business enterprise program to promote the development of small local businesses. The City is authorized to establish bid and proposal specifications that include subcontracting goals and good-faith effort requirements to enhance participation by small business enterprises located in Cumberland and Hoke Counties.

For more information or questions about the SLBE policy, please contact the Purchasing Division at 910-433-1942.

**CITY OF FAYETTEVILLE**



Douglas J. Hewett, ICM-CM  
City Manager

## **REQUEST FOR STATEMENTS OF QUALIFICATIONS**

### **GENERAL AIRPORT CONSULTANTS**

#### **FAYETTEVILLE REGIONAL AIRPORT**

### **INTRODUCTION**

The Fayetteville Regional Airport (Airport), NC is requesting Statements of Qualifications (SOQs) from qualified/experienced Aviation Consultants for architectural, engineering, planning, and general consulting services. The work includes, but is not limited to, value engineering of designed terminal renovations project, airfield and roadway paving, perimeter/security fencing, stormwater improvements, hangar, airfield lighting, and compliance with FAA design standards.

The Fayetteville Regional Airport plans to contract for these services for a period of up to three (3) years, with the possibility of two (2) one (1) year extensions. Fees will be negotiated with the selected firm(s) for each individual project. It is our intent to select more than one firm for On Call services in the following areas:

Architectural Design/bidding  
Airfield and Landside Civil Engineering Services  
Architectural Construction Admin. and Inspection  
Airfield and Landside Civil Construction Admin. And Inspection

It is the policy of the Airport that Disadvantaged Business Enterprises (DBE's), certified by the NCDOT's Division of Aviation or another recognized agency in accordance with 49 CFR Part 26, shall have the maximum opportunity to compete for awarding of contracts as professional, technical and non-technical service providers to the Airport.

The Airport shall award professional service agreements without regard to race, religion, color, creed, national origin, gender, age or handicapping condition. The Airport's professional service agreements are subject to the requirements of North Carolina law, and all other agencies having jurisdiction. The professional services agreement for this project will be awarded in accordance with the applicable laws of North Carolina and applicable requirements of the Federal Government.

The Airport reserves the right to approve all proposed sub-consultants, modify roles of proposed sub-consultants and/or require additional sub-consultants in the performance of this agreement.

Firms and/or teams are prohibited from establishing exclusive agreements with each other as part of this RFQ process.

## **PROPOSAL CONTENT / SUBMISSION REQUIREMENTS**

The submitting firm or team will be required to provide all professional services as may be necessary to plan, inspect, analyze, perform calculations, estimate construction and development costs, etc. in connection with proposed project work as described in Attachment "A".

Statements of Qualifications (4 copies) must be sealed, delivered via mail or in person, and marked "FAYETTEVILLE REGIONAL AIRPORT, NC- GENERAL CONSULTANTS RFQ" on the outside of the envelope. Proposals must be complete and include information requested in these instructions.

Proposals shall be delivered to the City of Fayetteville no later than **5:00 p.m. on June 7, 2018** at the following address:

City of Fayetteville  
Attn: Kimberly Toon, Purchasing Manager  
City Hall 2nd Floor  
433 Hay Street  
Fayetteville, NC 28306

No proposals will be accepted after the time and date stated above. All late proposals will be returned unopened.

Qualification statements are limited to a total of 20 pages, including transmittal letter, resumes, and all exhibits; but excluding any cover or divider pages. The statements must contain the following information presented in the following order:

### **Transmittal Letter**

1. Contact(s) - Name, address, telephone number, fax number, email address of the company and individual that will be primarily responsible for the projects and contact regarding the RFQ.
2. Team Description / Background - A general description of the submitting firm(s) and any sub-consultants, and their qualifications.
3. Name of firm and brief profile and history of firm.
4. Previous experience on similar projects within the last five (5) years.
5. Location of the office(s) to perform the work.
6. Indicate whether the team members have experience in working with each other previously and in what capacity.
7. Organization Chart - An organizational chart shall be submitted showing responsibilities and reporting hierarchy of the submitting firm and any sub-consultants, including geographical location of each individual.
8. Project Management Approach - Provide a summary of the firm / team's approach to project management and execution of individual projects. A description of the team's interaction with Airport and Staff should be included.

9. Assigned Staff - The Consultant shall identify the project manager and key personnel that will be assigned to the projects. Resumes shall be included for these key personnel, in similar type projects.
10. Workload - The Consultant shall give a brief summary of the team's current workload and ability to devote resources to this project. The Consultant should include a graphical representation of the workload and capacity. A detailed description of the PM's workload is also required.
11. Performance on Previous Project / References • A brief list of similar projects shall be submitted along with contact name and number of the client contact most involved with the Project Include Schedule / Budget Performance on Previous Projects.
12. EEO Policy of the submitting firm and any sub-consultants
13. Proof of professional liability insurance for the lead firm.

**THIS IS NOT A REQUEST FOR A PRICED PROPOSAL. DO NOT INCLUDE A PRICED**

## **EVALUATION PROCEDURES**

A Selection Committee has been established to review and evaluate all qualification statements submitted. The selection committee will evaluate all submittals received by the deadline. The submittals will be reviewed, evaluated and ranked upon the required criteria. Each of the criteria listed in this RFQ will be evaluated on how fully each submittal meets the Airport's requirements. Particular emphasis will be placed on the Consultant's past successful completion of similar projects shown by work summaries of the firm and individuals to do the work, as well as by references.

Qualification statements will be evaluated and scored by the following categories:

Having the necessary similar experience, organization, technical and managerial staff, and the facilities to carry out this work.

Having an adequate past record of performance on similar projects, verifiable through references.

Having familiarity of the Airport and of the applicable Federal, State and local codes required for the identified projects.

Having the financial and personnel resources for the performance of the Contract, or the ability to obtain such resources.

The submitting firm's/project manager's office location and proximity to the Airport as determined by the Selection Committee.

A consulting team(s) may be selected from the qualifications statements, or if deemed necessary, selected teams will be invited to make a presentation and to participate in an interview. The format and date of the presentation and interview will be established at the time of short listing, if undertaken.

The Fayetteville Regional Airport, NC reserves the right to accept or reject any or all responses without action.

## **INQUIRIES**

Questions concerning this RFQ must be submitted in writing to Francesca Cameron, Purchasing Agent at [NCameron@ci.fay.nc.us](mailto:NCameron@ci.fay.nc.us). All questions and answers regarding this RFQ are public information and will be made available to all other firms receiving this request for qualifications. All questions must be received prior to 5:00 pm on May 24, 2018. Any questions received after 5:00 pm on May 24, 2018 will not be answered.

Following the deadline established for the submission of questions. Firms and/or team members are to have no verbal or written contact with Airport Staff or Members of the Airport Commission. Any other contact will be cause for disqualification.

## **SERVICES AND PROJECTION DESCRIPTIONS**

Services requested include all appropriate: Planning, Architectural, Engineering, Construction Inspection, PFC application and monitoring services, and other services as required for the five (5) year project period.

The scope of the work includes but is not limited to data and information gathering, schematic design, construction documents, bidding and negotiation, contract administration, and record drawings.

Additional project information and the anticipated project work are provided in Attachment "A".

### **INCURRING COSTS**

The Airport shall not be liable for any cost incurred by the Consultant in the preparation or presentation of a response to this request.

### **RIGHT TO AWARD OR REJECT**

It is understood that all submittals will become part of the public's file on this matter, without obligation to the Airport. The Fayetteville Regional Airport, NC reserves the right to reject all submittals.

### **CONTRACT REQUIREMENTS**

The successful Consultant(s) will be required to complete a Service Contract in substantially the form included as Attachment "B". The successful consultant(s) shall also be able to provide a current professional liability insurance policy in the amount of \$1,000,000. In addition, it will be necessary for the successful Consultant(s) to be covered by Workmen's Compensation insurance which will extend to the work done within the State of North Carolina.

**Attachment A**  
**Scope of Work Project Work**

I. Anticipated Projects:

- Terminal Improvement Project that rehabilitates FAY's current terminal has been 99% designed. Part II currently would renovate the original 1969 two story terminal, ticketing and baggage wings. Architects/Consultant will need to perform value engineering on the existing design for Part II and recommend how to proceed with completing the work within the remaining budget for the project. Consideration could also include splitting Part II into Part II and Part III.
- Design/construct replacement perimeter/security fencing.
- Design/construct perimeter service road.
- Environmental/design/construct Taxiway F & G including rehabilitation of pavement and lighting (LED).
- T-hangars/corporate hangars
- Rehabilitate general aviation ramps.
- Stormwater Master Plan
- Stormwater implementation projects
- Consolidated rental car facilities.

II. Compensation

Reasonable compensation will be established by negotiation with the firm(s) selected by the Airport.

III. Security

The Consultant will be required to obtain security badges for unescorted access to the airport and project areas.



**Attachment B**  
**Sample General Consultant Services Agreement**  
(Final document subject to City Attorney approval)

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**STATE OF NORTH CAROLINA**  
**COUNTY OF CUMBERLAND**

**GENERAL SERVICES AGREEMENT**  
**FOR CONSULTING SERVICES**

**THIS AGREEMENT**, effective the day of \_\_\_\_\_ by and between **THE CITY OF FAYETTEVILLE, NORTH CAROLINA** (hereinafter referred to as **CITY**), with principal business offices at Fayetteville, North Carolina, and **CONSULTANT** (hereinafter referred to as **CONSULTANT**), a corporation with principal business offices at Fayetteville, North Carolina.

**W I T N E S S E T H:**

**WHEREAS, CITY**, is engaged in the operation and maintenance of facilities and services which from time to time require revision, renovation and extension of existing facilities, and the construction of new facilities and other related projects; and

**WHEREAS**, the professional services of engineers, architects, surveyors and others will from time to time in the future be needed by the **CITY** in the renovation of existing facilities, and in the construction of new facilities and other related projects; and

**WHEREAS**, pursuant to N.C.G.S. 143-64.31 it is the public policy of this State that municipalities announce all requirements for architectural, engineering and surveying services, to select firms qualified on the basis of demonstrated competence and qualification and to negotiate contracts for services at a fair and reasonable fee with the best qualified firm; and

**WHEREAS, CONSULTANT** provides professional consulting services of the nature required by the **CITY** and employs trained and experienced engineering, technical and/or other personnel possessing adequate knowledge, skills and experience to provide professional services to the **CITY**; and

**WHEREAS**, the **CITY** proposes to announce to various competing firms its need for professional consulting services in the future by requesting Proposals and the subsequent acceptance of proposals and the issuance of written authorizations to proceed, which together with this Agreement shall constitute a contract between the **CITY** and the **CONSULTANT**; and

**WHEREAS**, the parties contemplate that the services of **CONSULTANT** will be performed in various stages in accordance with separate authorizations to be issued by **CITY**, and the parties desire to set forth the basic terms of their agreement in this General Services

Agreement rather than in separate authorizations to be issued by **CITY**.

**NOW THEREFORE, IN CONSIDERATION** of the premises and the mutual covenants herein contained, the parties hereto do hereby contract and agree as follows:

**ARTICLE 1 - REQUEST FOR PROPOSAL-SUBMITTAL OF PROPOSAL.** As the need for consulting services arise, **CITY** will request a Proposal for said services from **CONSULTANT** which shall describe the scope of work, program, estimated schedule and **CITY'S** requirements. If **CONSULTANT** has the qualified personnel to meet **CITY'S** requirements to perform the consulting services requested by the **CITY**, **CONSULTANT** will submit to **CITY** within the time specified a written Proposal describing the necessary engineering, technical and/or other services, guidance, opinions and advice to be provided. The Proposal shall set forth in general terms **CONSULTANT'S** recommendations to carry out the work. **CONSULTANT** shall list the background and experience of **CONSULTANT'S** personnel to be assigned to the project. Said Proposal shall contain a fee schedule setting forth fees for services of the various categories of personnel to be assigned to **CITY'S** project.

**ARTICLE 1.1 - ACCEPTANCE OF PROPOSAL.** **CITY** and **CONSULTANT** contemplate certain discussions, negotiations and possible changes to the Proposal submitted by **CONSULTANT**. Upon a meeting of the minds, **CONSULTANT** shall submit the final Proposal which shall set forth the agreement of the parties. If said Proposal is acceptable, the **CITY** shall accept same in writing. **CONSULTANT'S** fee schedule shall remain in effect during the term of this Agreement, unless modified by the parties in writing. **CITY** shall provide **CONSULTANT** with a specific written Authorization to Proceed for each Proposal accepted by **CITY**.

**ARTICLE 2 - TERM OF AGREEMENT.** The term of this General Services Agreement For Consulting Services shall be for three (3) years from the date it is effective. The Agreement may be extended thereafter by mutual written agreement of the parties.

**ARTICLE 2.1 - ASSIGNMENT.** It is the intent of this Agreement to secure the personal services of the **CONSULTANT** and failure of the **CONSULTANT** for any reason to make the personal services available to the **CITY** for the purposes described in this Agreement shall be cause for termination of this Agreement. The **CONSULTANT** shall not assign, sublet, or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of **CITY**. Nothing contained in this paragraph shall prevent **CONSULTANT** from employing such independent consultants, associates, and sub-contractors as it may deem appropriate to assist **CONSULTANT** in the performance of services rendered.

**ARTICLE 3 - COMPENSATION.** **CONSULTANT** shall submit to **CITY** monthly invoices for services performed during that month, computed on the basis of the Proposal accepted by **CITY**. **CITY** agrees to pay **CONSULTANT'S** monthly invoice within thirty (30) days after said invoice is received by the **CITY**. Adjustments to an invoice for billing errors may extend the time for payment.

**ARTICLE 3.1 - VERIFICATION OF INVOICES.** CITY has the right to require the CONSULTANT to produce for inspection all CONSULTANT'S time records, salaries of personnel and charges for direct expenses for which cost-plus compensation is provided. CONSULTANT agrees to provide CITY with said records on a timely basis and cooperate with CITY to verify the accuracy of all invoices.

**ARTICLE 3.2 - COSTS AND EXPENSES.** CONSULTANT will invoice CITY for all travel and living expenses of its employees assigned to a project which said expenses shall be at actual cost, unless said costs or expenses are specifically set forth and included in a fixed price contract. Accommodations for CONSULTANT'S employees shall be arranged by CONSULTANT. Living expenses for CONSULTANT'S employees shall be the usual and customary expenses for accommodations to which CONSULTANT'S employees are accustomed, and which are prevailing in Cumberland County, North Carolina.

**ARTICLE 3.3 - DISPUTES.** CITY shall pay CONSULTANT'S invoices at times heretofore set forth unless a bona fide dispute exists between CITY and CONSULTANT concerning the accuracy of said invoice or the services covered thereby.

**ARTICLE 3.4 – NON APPROPRIATION.** Notwithstanding any other provisions of this Agreement, the parties agree that payments due hereunder from the CITY are from appropriations and monies from the City Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the CITY to pay the terms of this agreement for any fiscal year, this Agreement shall terminate immediately without further obligation of the CITY.

**ARTICLE 4 - PROFESSIONAL STANDARDS AND DUTIES OF CONSULTANT.** CONSULTANT shall be held to the same standard and shall exercise the same degree of care, skill and judgment in the performance of services for CITY as is ordinarily provided by a similar professional under the same or similar circumstances at the time in Cumberland County, North Carolina.

**ARTICLE 4.1 - CONSULTANT NOT RESPONSIBLE FOR CONSTRUCTION MEANS OR SAFETY.** A CONSULTANT for general construction projects shall not be responsible for any general contractor's or other project participant's failure to fulfill their contractual responsibilities to the CITY, nor shall CONSULTANT be responsible for construction means, methods, techniques, sequences, or procedures. Neither shall CONSULTANT be responsible for a project safety program or safety precautions unless CONSULTANT'S Proposal sets forth a safety program which is accepted by CITY and becomes a part of the agreement between the parties.

**ARTICLE 4.2 - CONSULTANT AS CONSTRUCTION MANAGER.** In the event the **CITY** contracts with the **CONSULTANT** to provide Construction Management Services, the **CONSULTANT** shall be responsible for determining that each construction contractor provides work to the quality level specified and in accordance with the plans and specifications. In no event shall **CONSULTANT** be responsible for any contractor's, subcontractor's, vendor's, or other project participant's failure to comply with federal, state or local laws, ordinances, regulations, rules, codes, orders, criteria, or standards unless it has contracted with the **CITY** to do so.

**ARTICLE 5 - ESTIMATES OF COST AND TIME.** Although **CONSULTANT** has no control over the cost of labor, materials, equipment or services furnished by others, or over contractor's, sub-contractor's, or vendor's methods of determining prices, or over competitive bidding or market conditions, nevertheless **CONSULTANT'S** cost estimates and time estimates shall be made on the basis of current labor and material prices and the **CONSULTANT'S** experience and qualifications, and **CONSULTANT'S** estimates shall represent its best judgment as an experienced and qualified professional familiar with electric, water and sewer utility projects, or other projects for which **CONSULTANT** is employed. Although **CONSULTANT** has no control over the resources provided by contractors to meet contract schedules, nevertheless **CONSULTANT'S** estimates or forecast of schedules shall be made on the basis of its experience and qualifications and shall represent **CONSULTANT'S** best judgment as an experienced and qualified professional familiar with electric, water and sewer utility projects, or other projects for which **CONSULTANT** is employed. **CONSULTANT** does not guarantee that project costs and schedules will not vary from the estimates and schedules given to **CITY**.

**ARTICLE 6.0 - LIABILITY, INDEMNIFICATION AND INSURANCE.**

**6.1 - GENERAL.** The **CITY** and **CONSULTANT** have considered the risks and potential liability that may exist during the performance of services by **CONSULTANT**, and have agreed to allocate such liabilities in accordance with this Article. During the performance of services under this Agreement, **CONSULTANT** shall purchase and maintain insurance coverage as hereinafter set forth, without lapse or changes contrary to the requirements of this section. Words and phrases used in this Article shall be interpreted in accordance with customary insurance industry usage and practice.

**6.2 - INDEMNITY AND PROFESSIONAL LIABILITY.** **CONSULTANT** agrees to indemnify and hold the **CITY** harmless from and against damages and losses arising out of the performance of professional services for **CITY** to the extent caused by the professional negligence of **CONSULTANT**, Consultant's employees, and Consultant's subcontractors, for whom **CONSULTANT** is legally responsible. **CONSULTANT** agrees to purchase and maintain professional liability insurance (errors and omissions insurance) in the amount of \$1,000,000 coverage for each claim, with a general aggregate of \$2,000,000. Said insurance coverage shall be underwritten by an insurance company authorized to do business in the State of North Carolina by the North Carolina Department of Insurance, with an A.M. Best rating of not less than A-VII.

**6.3 - LIABILITY INSURANCE.** **CONSULTANT** agrees to indemnify and hold the **CITY**, its servants, agents and employees, harmless from and against all liabilities, claims, demands, suits, losses, damages, costs and expenses (including attorney's fees) for third party bodily injury to or death of any person, or damage to or destruction of any third party property, to the extent caused by the negligence of the **CONSULTANT**, Consultant's employees, and Consultant's subcontractors, for whom **CONSULTANT** is legally responsible during the performance of services under this Agreement. **CONSULTANT** shall purchase and maintain at all times during performance of services under this Agreement Commercial General Liability Insurance with combined single limits of \$1,000,000.00 coverage for each occurrence with a general aggregate of \$2,000,000.00, designating the **CITY** as an additional insured and which said insurance provides **CONSULTANT** with insurance for contractual liability which **CONSULTANT** has assumed pursuant to the terms of this Article 6.

**6.4 - OTHER INSURANCE.** In addition to professional liability insurance and commercial general liability insurance set forth above, **CONSULTANT** further agrees to purchase and maintain at all times during the performance of services under this Agreement insurance coverage as follows:

- (a) Worker's Compensation Insurance as provided by North Carolina law which said policy shall also afford coverage to **CONSULTANT** for employer's liability.
- (b) Automobile liability insurance with \$1,000,000.00 combined single limit for each accident covering bodily injury and property damage.
- (c) The CGL policy required above shall include independent contractor liability coverage.
- (d) The CGL policy required above shall provide **CONSULTANT** with products and completed operations insurance, said coverage to be written on an occurrence basis, with coverage extended for such a period of time that suits can be filed before the running of the statute of limitations on any claim for injury to person or property due to negligence of **CONSULTANT** in the design of any building designed by the **CONSULTANT** under the terms of this Agreement.

**ARTICLE 7 - INDEPENDENT CONTRACTOR.** **CONSULTANT** is an independent contractor and shall undertake performance of the services pursuant to the terms of this Agreement as an independent contractor. **CONSULTANT** shall be wholly responsible for the methods, means and techniques of performance. **CITY** shall have no right to supervise methods and techniques of performance employed by **CONSULTANT**, but **CITY** shall have the right to observe such performance.

**ARTICLE 8 - COMPLIANCE WITH LAWS.** **CONSULTANT** agrees that in performing services pursuant to this Agreement to comply with all applicable regulatory requirements including federal, state and local laws, rules, regulations, orders, codes, criteria, and standards. **CONSULTANT** shall be responsible for procuring all permits, certificates, and licenses necessary to allow **CONSULTANT** to perform services under this Agreement. **CONSULTANT** shall not be responsible for procuring permits required for the construction of any building, unless such responsibility is specifically agreed to by **CONSULTANT**.

**ARTICLE 9 - CITY'S RESPONSIBILITIES.** CITY will furnish to CONSULTANT all of CITY'S requirements for the project, including, but not limited to, scope of work, program, time constraints, schedule milestones, financial constraints, design objectives and design constraints, which are available to the CITY or which the CITY can reasonably obtain to furnish to CONSULTANT to enable CONSULTANT to make a Proposal to CITY. Additionally, the CITY shall also be responsible for the following:

- (1) Make final decisions utilizing information supplied by CONSULTANT.
- (2) Designate personnel to represent CITY in matters involving the relationship between CITY, CONSULTANT and third parties.
- (3) Provide such accounting, independent cost estimating, and insurance counseling services as may be required by the project.
- (4) Provide such legal services as CITY may require or CONSULTANT may reasonably request with regard to legal issues pertaining to the project, including those which may be raised by contractors, subcontractors, vendors or other project participants.
- (5) Enter into contracts for the purchase, construction, or other services with contractors, subcontractors, and vendors.
- (6) Provide financing for the project and make all payments in accordance with the terms of the contract.

**ARTICLE 10 - OWNERSHIP OF DOCUMENTS.** All documents, including drawings and specifications prepared by CONSULTANT pursuant to this AGREEMENT, are instruments of service in respect of the Project. They are not intended or represented to be suitable for reuse by CITY or others on extensions of the Project or on any other project. Any reuse without written verification or adaption by CONSULTANT for the specific purpose intended will be at CITY'S sole risk and without liability to CONSULTANT. Any such verification or adaptation will entitle CONSULTANT to further compensation at rates to be agreed upon by CITY and CONSULTANT.

**ARTICLE 11 - TERMINATION OF CONTRACT FOR CAUSE.** In the event of substantial failure by CONSULTANT to perform in accordance with the terms of this Agreement, CITY shall have the right to terminate CONSULTANT upon seven (7) days written notice in which event CONSULTANT shall have neither the obligation nor the right to perform further services under this Agreement.

**ARTICLE 12 - TERMINATION OF CONTRACT FOR CONVENIENCE.** CITY shall have the right to terminate this Agreement for CITY'S convenience upon seven (7) days written notice to CONSULTANT. CONSULTANT shall terminate performance of services on a schedule acceptable to CITY. In the event of termination for convenience, the CITY shall pay CONSULTANT for all services performed.

**ARTICLE 13 - NONDISCLOSURE OF PROPRIETARY INFORMATION.**

**CONSULTANT** shall consider all information provided by **CITY** and all drawings, reports, studies, calculations, plans, specifications, and other documents resulting from the **CONSULTANT'S** performance of the **SERVICES** to be proprietary, unless such information is available from public sources. **CONSULTANT** shall not publish or disclose proprietary information for any purposes other than the performance of the **SERVICES** without the prior written authorization of **CITY**. **CONSULTANT** shall not make any written or verbal statement to any press or news media concerning the Project without the written authorization of **CITY**.

**ARTICLE 14 - NOTICE.** Any formal notice, demand, or request required by or made in connection with this agreement shall be deemed properly made if delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below.

**TO CONSULTANT:** **CONSULTANT NAME**  
**CONSULTANT ADDRESS**  
**CITY, STATE ZIP CODE**

**TO CITY:** **CITY OF FAYETTEVILLE**  
**ATTENTION: DOUGLAS J. HEWETT**  
**CITY MANAGER**  
**433 HAY STREET**  
**FAYETTEVILLE, NORTH CAROLINA**  
**28301**

Nothing contained in this Article shall be construed to restrict the transmission of routine communication between representatives of **CONSULTANT** and **CITY**.

**ARTICLE 15 - DELAY BEYOND CONTROL OF THE PARTIES.**

Neither **CONSULTANT** nor **CITY** shall be considered to be in default of the provisions of this Agreement for delays in performance due to forces beyond the control of the parties. "Forces beyond the control of the parties" shall mean, but is not limited to, delay caused by fire, acts of God, flood, earthquakes, storms, lightning, epidemic, war, riot, and/or civil disturbance.

**ARTICLE 16 - GOVERNING LAW.** This Agreement shall be governed by the laws of the State of North Carolina.

**ARTICLE 17 - MISCELLANEOUS.**

**17.1 NONWAIVER FOR BREACH.** No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance and for any such breach or non-performance each party shall be relegated to such remedies as provided by law.

**17.2 PRECEDENCE.** In the event of any conflict or discrepancy between the terms of this Agreement and the specific written authorization to proceed pursuant to this Agreement, then the written authorization to proceed shall be given precedence over this Agreement in resolving such conflicts or discrepancies. If any conflict or discrepancy is discovered by either party hereto, then the written authorization to proceed, or this Agreement, shall be modified or amended, as necessary.

**17.3 SEVERABILITY.** The invalidity, illegality, or un-enforceability of any portion or provision of this Agreement shall in no way affect the validity, legality and/or enforceability of any other portion or provision of this Agreement. Any invalid, illegal or unenforceable provision of this Agreement shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced the same as if the Agreement had not contained any portion or provision which was invalid, illegal or unenforceable. Provided, however, this section 17.3 shall not prevent this entire Agreement from being void in the event any portion or provision of this Agreement which is of the essence of this Agreement shall be deemed void as provided by law or as determined by a court of competent jurisdiction.

**ARTICLE 18 - INTEGRATED AGREEMENT.** The **CITY'S** request for Proposal, the **CONSULTANT'S** written Proposal, the **CITY'S** authorization to proceed and this General Services Agreement for Consulting Services shall be integrated into and shall become the integrated agreement between the parties. **CONSULTANT** and **CITY** agree that all prior negotiations, representations, proposals, letters, agreements, understandings, or other communications between them, whether written or oral, are hereby merged into the Agreement and that the Agreement supersedes all such prior negotiations, contracts and/or agreements. This Agreement shall not be modified unless such modifications are evidenced in writing, signed by both **CONSULTANT** and **CITY**.

**ARTICLE 19 - BENEFITS LIMITED TO PARTIES.** Nothing herein shall be construed to give any right or benefits hereunder to anyone other than **CITY** and **CONSULTANT**.



**19.1 LIMITATIONS.** CONSULTANT's total liability to CITY under each authorization shall not exceed the total compensation paid under the authorization, or \$1,000,000, whichever is greater; any portion of liability determined to be consequential damages under this per authorization limit, shall not exceed the compensation paid under the authorization.

In no event shall CONSULTANT's total liability in the aggregate, for all services under this agreement, exceed \$4,000,000. limits set forth in this agreement shall apply notwithstanding any and all causes whatsoever including, but not limited to negligence (of any degree), errors, omissions, warranty, indemnity, strict liability or breach of contract, provided, however, that the foregoing limitation shall not apply to any indemnity obligations of consultant with respect to third party personal injury and death or damage to third party property.

**ARTICLE 20 – DISPUTE RESOLUTION.** CITY and CONSULTANT agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to this Agreement or the breach thereof to mediation, pursuant to The Mediated Settlement Conference Rules of the 12<sup>th</sup> Judicial District, Superior Court Division, Cumberland County. If such mediation is unsuccessful in resolving a dispute, then either party may seek to have the dispute resolved by a court of competent jurisdiction.

**IN WITNESS WHEREOF,** the parties have executed this Agreement by their duly authorized representatives effective the day and year first above written.

**CITY OF FAYETTEVILLE, NORTH CAROLINA**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Douglas J. Hewett, City Manager

**CONSULTANT NAME**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

**Exhibit A**  
**Task Authorization**

**CITY OF FAYETTEVILLE  
WORK AUTHORIZATION  
FOR  
PROFESSIONAL SERVICES  
BY  
(Firm Name)**

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In accordance with the General Services Agreement (Agreement) dated \_\_\_\_\_, between THE CITY OF FAYETTEVILLE (hereinafter called OWNER) and \_\_\_\_\_ (hereinafter called CONSULTANT), OWNER hereby authorizes CONSULTANT to proceed and CONSULTANT agrees to perform in accordance with the terms of the Agreement and this Work Authorization, the following services for the following Project:

**I. PROJECT**

This Work Authorization is for professional services related to:

- Describe the Project
- Describe the funding mechanism
- Identify the Division/Department representing City for this project

Or, “See attached Exhibit A”

**II. AGREEMENT & SCOPE OF SERVICE**

The terms of the Agreement are incorporated herein by reference as if written herein and the parties confirm that its terms are a part of this Work Authorization.

The Scope of Services to be provided by CONSULTANT, in connection with this Authorization is as follows:

Deliverables

- Timeframe
- Scope may be referenced in an attached Proposal

The CONSULTANT shall request written confirmation and or execute an additional Work Authorization describing any scope change before performing any work beyond the scope specified in this Work Authorization. The confirmation shall identify any change in compensation and/or delay in completion which the scope changes entails and must be

approved by the City Manager or his designee.

### III. RESPONSIBILITIES

The responsibilities of the OWNER and CONSULTANT, in addition to those provided in the Agreement which are specific to this Project, are as follows:

- Owner
- Consultant

### IV. COMPENSATION

OWNER shall compensate CONSULTANT for providing the services set forth herein in accordance with the terms of the Agreement.

In the absence of a lump sum fee agreement, it is understood and agreed that:

1. CONSULTANT will perform under this Agreement on a best effort, not-to-exceed ceiling price basis and will notify OWNER when the ceiling price will be exceeded.
2. The not to exceed compensation (including travel) for this Work Authorization is \$\_\_\_\_\_. This is not a guaranteed maximum amount but CONSULTANT shall not continue performing work in excess of this amount without further specific authorization. OWNER will be billed only for actual time worked and identified expenses.

Payment shall be made in accordance with the terms of the above referenced Agreement.

### V. SCHEDULE

All work under this Work Authorization shall begin \_\_\_\_\_ and shall be complete by \_\_\_\_\_.

**VI. MISCELLANEOUS**

1. The terms in this Work Authorization shall have the same meaning as provided in the Agreement.
  
2. As mandated by N.C. Gen. Stat. § 147-86.59(a), CONSULTANT certifies that it is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. CONSULTANT further certifies that, in accordance with N.C. Gen. Stat. § 147-86-59(b), it shall not utilize any subcontractor found on the State Treasurer’s Final Divestment List. CONSULTANT certifies that the signatory to this Work Authorization is authorized by CONSULTANT to make the foregoing statement.
  
3. CONSULTANT acknowledges that “E-Verify” is the federal E-Verify program operated by the U.S. Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. CONSULTANT further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with N.C. Gen. Stat. § 64-26(a). CONSULTANT pledges, attests and warrants through execution of this contract that CONSULTANT complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and further pledges, attests and warrants that any subcontractors currently employed by or subsequently hired by CONSULTANT shall comply with any and all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this Work Authorization.

CONSULTANT ACCEPTANCE:

(Insert Firm Name)

\_\_\_\_\_

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

DATE: \_\_\_\_\_

AUTHORIZATION BY:

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Cheryl Spivey, Finance Director